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GEN-PROBE

February 18, 2000

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By Facsimile

Norval B. Galloway, Esq.
Patent Counsel
VYSIS, INC.
3100 Woodcreek Drive
Downers Grove, Illinois 60515

Dear Norval:

This letter responds to your letter of February 11, 2000.

First, I have received the draft licenses and forwarded them to Chiron and Bayer for review. I hope to be able to provide collective comments in the near future. I apologize for the delay in forwarding the licenses to Chiron and Bayer, but I was unaware that Pete had received the drafts from you when they were first sent. I did not see them until you resent them. We consider the licenses to be in effect as of December 21, 1999 (subject to the logistical step of completing the documentation) and will proceed accordingly.

Second, as to license royalties, I can report as follows. Gen-Probe is not now selling any product arguably covered by the original license to Gen-Probe. We anticipate commencing U.S. clinical trials of our Combo 2 product for the detection of *Neisseria gonorrheae* and *Chlamydia trachomatis* before the end of March. We anticipate that the product will be launched commercially by the end of the year. This product uses a form of target capture and a form of target amplification. ~~Without~~ waiving the claims asserted in our complaint for declaratory relief as to validity ~~and non-infringement~~, and specifically reserving our rights in connection with those claims, ~~it is our current intention~~ to treat the Combo 2 product -- upon its commercial introduction ~~-- as subject to the~~ Collins License pending the resolution of the lawsuit.

Gen-Probe understands that Chiron is now selling the HIV/HCV blood screening assay in France following regulatory approval. An approved product is not being sold anywhere else in the world at this time. The HIV/HCV blood screening assay uses a form of target capture and a form of target amplification. Without waiving the claims asserted in our complaint for declaratory relief as to validity and non-infringement, and specifically reserving our rights in connection with those claims, it is our current intention to treat commercial sales of the HIV/HCV blood screening assay as subject to the Collins License pending the resolution of the

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lawsuit. The first royalty report will be due as of March 1 and we we expect to submit a timely report. Any royalty report and/or royalty payment which includes sales of any product in foreign countries prior to approval of that product for sale in the United States will specifically reserve our rights pursuant to 35 U.S.C. § 271(e) and will not waive those rights.

Bayer handles the distribution of the clinical diagnostic products. Bayer is not now selling any product arguably covered by the license. We anticipate that U.S. clinical trials for an HCV product will be commenced before the end of the year and it also possible that ASR products may be sold this year. The HCV assay will use a form of target capture and a form of target amplification. Without waiving the claims asserted in our complaint for declaratory relief as to validity and non-infringement, and specifically reserving our rights in connection with those claims, it is our current intention to treat the HCV diagnostic product -- upon its commercial introduction -- as subject to the Collins License pending the resolution of the lawsuit.

Third, because we intend to treat the above-referenced products as covered by the license, pending the determination of our complaint for declaratory relief, it is my understanding that all such products sold commercially will be marked in accordance with Gen-Probe's standard marking practices with respect to its own patents. At present, based on the advice of counsel, Gen-Probe does not mark its patent numbers on products sold in any countries other than the United States, Canada, and Australia. Without waiving the claims asserted in our complaint for declaratory relief as to validity and non-infringement, and specifically reserving our rights in connection with those claims, we intend to include the Collins U.S. patent numbers on products sold commercially in the United States pending the resolution of the lawsuit.

Fourth, and finally, my letter to you requesting notice of any post-patent applications to the PTO was in fact misdated and should have been dated February 10 rather than December 21. As you requested, I am enclosing a corrected copy of the letter for your records.

I will forward comments on the licenses as soon as I have collected them. Thank you for considering these matters. Please call me if you would like to discuss any of them.

Sincerely,

R. William Bowen, Jr.
Vice President and General Counsel

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